

ARTICLE 12:

MBTA COMMUNITIES OVERLAY DISTRICT

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 12 **ZONING BYLAW AMENDMENT / MBTA COMMUNITIES OVERLAY DISTRICT**

To see if the Town will vote to amend the Zoning Bylaw to adopt an MBTA COMMUNITIES OVERLAY DISTRICT or DISTRICTS of reasonable size where multi-family housing may be constructed as of right per the terms of MGL Chapter 40A Section 3A.; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

DISCUSSION:

In response to the “MBTA Communities Law” enacted in 2021 (Mass General Law Chapter 40A, section 3A), the Board established the MBTA Communities Working Group on 11/7/2022. Over the next nine months, the Working Group engaged the public, researched, and deliberated over an implementation plan that would allow Arlington to comply with state law by developing an MBTA Communities overlay district, with two sub-districts, where multi-family housing may be constructed by-right, meaning without a special permit. [The final report of the Working Group to the ARB and Town Meeting is available here.](#)

The Working Group Report provides a detailed picture of the outreach, thought process, and values behind the proposed multi-family district. However, the Arlington Redevelopment Board would like to note that there are a number of substantive differences between the Working Group’s recommendation and the main motion before Town Meeting, which were adopted as a result of continued dialogue between the ARB and the members of the public who attended the many public outreach sessions, the DPCD, the Town’s planning consultant, and the members of the Working Group. These differences include (a) a reduction to the height limits in the Neighborhood Multifamily District, from four stories to three, (b) a minimum parking requirement of one space per dwelling unit, subject to reductions via existing provisions of Section 6.1 of the Zoning Bylaw, and (c) map changes along Mass Ave, east of Orvis Road. The ARB adopted these changes due to (a) the scale, density, and aesthetic in the existing and adjacent neighborhoods of the proposed Neighborhood Multi-Family Districts, (b) to maintain continuity across the town in accordance with MAPC parking study conclusions and because they can be reduced with transportation demand management plans, and (c) to allow for a process to rezone the East Arlington Business District in a holistic manner. One ARB member was in favor of maintaining the three highlighted Working Group recommendations.

The proposal before Town Meeting has a capacity of 3,216 units on 115.6 acres. The multi-family district has approximately 1,981 existing dwellings, such that the difference between existing conditions and modeled capacity is approximately 1,235 units. If adopted, the Board projects that 15 to 45 parcels would be redeveloped over the next ten years, leading to a net increase of 50 to 200 new units.

As the state deems Arlington a rail transit “adjacent” community, the Town is not compelled to comply with the MBTA Communities Law until the end of 2024; however, in 2020, 94% of Town Meeting voted to pass a Clean Heat Bylaw prohibiting new fossil fuel infrastructure in new construction and renovations. While this home rule petition was not approved by the state, the Town has been invited to

participate in the state’s Municipal Fossil Fuel-Free Building Demonstration Program which will ensure that new and renovated buildings in Arlington will not use fossil fuels. Participation in this program is contingent on Town Meeting establishing an MBTA Communities zoning area approved by the state Executive Office of Housing and Livable Communities (EOHLC) by the end of 2023.

Furthermore, this article aligns with several published Town planning documents including: the Master Plan (2015), the Fair Housing Action Plan (2021), the Housing Production Plan (2022), Net Zero Action Plan (2021), and the Community Equity Audit (2023). Indeed, a recommendation for zoning from the Town of Arlington Equity Audit asks that Arlington “address restrictive policies for residential zoning in order to allow for desegregation.” The equity audit specifies multiple strategies for doing so, including removing the requirement for a special permit to develop multi-family housing and allowing for an inclusionary zoning bonus in high-density residential zoning districts. This article addresses both those strategies, as today in Arlington, development of any multi-family housing (which is considered 3 or more homes in a single building – a triple decker for example) requires a special permit.

The proposed overlay zone and its sub-districts follow the highest frequency bus lines from East Arlington to Arlington Heights, allowing by-right construction of multi-family housing up to four stories along Massachusetts Avenue and Broadway, and up to three stories in the neighborhood sub-districts. The overlay avoids flood plains, historic districts, and National Register of Historic Places designated properties. The zone is in proximity to, but does not cover, Arlington’s commercial areas, leaving them available for potential rezoning to promote commercial redevelopment in the future.

The article also provides a set of development incentives to meet the needs and values of the community as expressed during public outreach done by the Working Group, including: a height bonus that would allow for building up to six stories on Mass Ave and five stories on Broadway for building commercial space on the ground floor, a height bonus that would allow for building an additional story for building more inclusionary affordable units than is currently required, and a height bonus for sustainable design and provision of open space.

State law and guidelines require our town to re-zone at least 32 acres where there would be a capacity for at least 2,046 housing units (3 units or more per building) that would not require a special permit to be constructed (i.e., “as-of-right”). Rather than limit the zone to one area of 32 acres (which would allow the entire area to have 5- and 6-story high buildings), this article takes the context of the town into account, setting the height of buildings like those already in the areas, and placing the zones on and near our transit and business corridors. Placing the zones on and near Mass. Ave and Broadway will help support sustainable walkable neighborhoods where residents can walk to local shops, services, and public transportation, thereby reducing the use of automobiles. It will also provide more potential customers (and perhaps employees and owners) for those local businesses, keeping them strong, and help maintain our vibrant business corridors. That is consistent with town policies and the community survey responses about how to implement the MBTA Communities Law. In addition, the new development will be subject to “site plan review,” which authorizes the Redevelopment Board to make sure the development is consistent with environmental design review standards and guidelines.

VOTE AND RECOMMENDATION TO TOWN MEETING:

The Redevelopment Board voted 4-0 to recommend Favorable Action that the Zoning Bylaw be and hereby is amended as follows:

Amend SECTIONS 2 and 5:

Section 2: Definitions

Add the following definition:

As of Right Development: A development that may proceed under this Bylaw without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. It may, however, be subject to site plan review.

Add the following definition to the Definitions Associated with Dwelling:

Multi-family Housing: A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building, excluding Accessory Dwelling Units.

Add the following definition:

Overlay District: A zoning district that is applied over one or more previously established zoning districts. An Overlay District may establish additional or alternative requirements for properties in the Overlay District that are different than the requirements in the underlying zoning district.

Add the following definition:

Site Plan Review: A process established by this Bylaw by which the Arlington Redevelopment Board reviews and potentially imposes conditions on an As of Right Development that may include, but not be limited to, matters such as vehicle access and circulation on a site, architectural design of a building, and screening of adjacent properties, prior to the issuance of a building permit.

Section 5: District Regulations

Renumber Section 5.9 as Section 5.10 and add a new Section 5.9 as follows:

Section 5.9 Multi-Family Housing Overlay Districts Established Under Massachusetts General Laws Chapter 40A, Section 3A

5.9.1. Multi-Family Housing Overlay Districts

- A. The Multi-Family Housing Overlay Districts consist of two districts: the Massachusetts Avenue/Broadway Multi-Family (MBMF) Overlay District and the Neighborhood Multi-Family (NMF) Overlay District.
- B. The MBMF and NMF Overlay Districts do not replace existing underlying zoning districts but are superimposed over them. The provisions of Section 5.9 of this Bylaw apply to developments on parcels located within the MBMF and NMF Overlay Districts when the property owner has

elected to comply with the requirements of the MBMF Overlay District or NMF Overlay District, as applicable, rather than comply with those of the existing underlying zoning district. In other words, a development may comply with either the existing underlying zoning or the zoning for the applicable Overlay District, but not both on the same parcel or parcels.

- C. If a proposed development is located on a parcel or parcels within both the MBMF and the NMF Overlay Districts, the provisions of the MBMF Overlay District shall apply to the property in the MBMF Overlay District and for a maximum of one parcel depth into the NMF Overlay District. If a proposed development is located on a parcel or parcels only partially within the MBMF or MNF Overlay Districts, the provisions of the existing underlying zoning shall apply and not of the Overlay Districts.

5.9.2. Purposes

The purposes of the Multi-Family Housing Overlay Districts are:

- A. To respond to the local and regional need for housing by enabling development of a variety of housing types,
- B. To respond to the local and regional need for affordable housing by allowing for a variety of housing types with affordable housing requirements,
- C. To promote multi-family housing near retail services, offices, civic, and personal service uses, thus helping to ensure pedestrian-friendly development by allowing higher density housing in areas that are walkable to shopping and local services,
- D. To reduce dependency on automobiles by providing opportunities for upper-story and multi-family housing near public transportation,
- E. To encourage environmental and climate protection sensitive development,
- F. To encourage economic investment in the redevelopment of properties,
- G. To encourage residential uses to provide a customer base for local businesses, and
- H. To ensure compliance with MGL c. 40A § 3A.

5.9.3 Site Plan Review

Development under Section 5.9 of this Bylaw requires Site Plan Review by the Arlington Redevelopment Board (ARB). The ARB shall provide site plan review for projects using the Environmental Design Review standards set forth in Section 3.4.4. of this Bylaw, the Residential Design Guidelines, and other Guidelines that may be adopted. Site plan review may include, but not be limited to, site layout, including lighting, landscaping and buffers, architectural style, outdoor amenities, and open spaces. All site plan reviews applicable to developments under Section 5.9 shall be consistent with the purposes of Section 5.9 and with MGL c.40A § 3A, and any Compliance Guidelines issued thereunder, as amended.

5.9.4. Development Standards

- A. Development meeting the requirements of Section 5.9 of this Bylaw is As of Right Development, subject to Site Plan Review as set forth in Section 5.9.3 of this Bylaw.
- B. Development under Section 5.9 of this Bylaw shall be only Multi-family Housing except for the mixed-use bonus option in Section 5.9.4.E.(1) of this Bylaw.
- C. Accessory uses for residential uses are permitted to the same extent they would be allowed in the underlying district.
- D. Dimensional Requirements

The requirements of Section 5.3 of this Bylaw that are applicable in all districts, including the requirements in Section 5.3.17 for Upper-Story Building Step Backs, are applicable in the Multi-Family Overlay Districts except to the extent that they are specifically modified by Section 5.9 of this Bylaw.

The dimensional requirements of Section 5.3 of this Bylaw and the tables of dimensional and density regulations of this Bylaw are modified as follows for developments under Section 5.9 of this Bylaw:

- 1) Section 5.3.1 Lot Area Per Dwelling Unit does not apply.
- 2) Section 5.3.3 Spacing of Residential and Other Buildings on One Lot does not apply.
- 3) Section 5.3.8 Corner Lots and Through Lots does not apply.
- 4) Section 5.3.11 Dimensional Requirements for Courts does not apply.
- 5) Section 5.3.12(A) Traffic Visibility Across Street Corners applies only in the NMF Overlay District.
- 6) Section 5.3.14 Townhouse Structures does not apply.
- 7) Section 5.3.19 Height Buffer Area shall apply to six-story high buildings only.
- 8) There are no requirements for minimum lot size, lot area per dwelling unit, lot frontage, landscaped or usable open space, Floor Area Ratio, or lot coverage.
- 9) Section 5.3.10 Average Setback Exception to Minimum Front Yard: All R Districts, shall be applied in the NMF District.

10) Except as noted in Section 5.9.4.E. Bonuses, the dimensional requirements are as follows:

<u>District</u>	<u>MBMF on Mass Ave</u>	<u>MBMF on Broadway</u>	<u>NMF</u>
<u>Max Height in Stories</u>	<u>4</u>	<u>4</u>	<u>3</u>
<u>Max Height in Feet</u>	<u>52'</u>	<u>52'</u>	<u>35'</u>
<u>Minimum Front Yard Setback</u>	<u>15'</u>	<u>15'</u>	<u>15'</u>
<u>Minimum Side Yard Setback</u>	<u>5' each side</u>	<u>5' each side</u>	<u>Each side: minimum 5'; sum of two sides: minimum 20'</u>
<u>Minimum Rear Yard Setback</u>	<u>20'</u>	<u>20'</u>	<u>20'</u>

Required minimum front yard setback areas shall be available for uses such as trees, landscaping, benches, tables, chairs, play areas, art, or similar features. No parking spaces are allowed in the required minimum front yard setback.

E. Bonuses

- 1) In the MBMF Overlay District, for properties abutting Massachusetts Avenue, where the ground floor at street level will be at least 60% occupied by eating and drinking establishments, businesses services, childcare, or retail uses, there are no residential units on the ground floor at street level, and the frontage is at least 80% occupied by said non-residential uses, the maximum height is 6 stories and 78 feet, and the front yard setback requirement is reduced to 0 feet. In the MBMF Overlay District, for properties abutting Broadway, where the ground floor at street level will be at least 60% occupied by eating and drinking establishments, businesses services, childcare, or retail uses, there are no residential units on the ground floor at street level, and the frontage is at least 80% occupied by said non-residential uses, the maximum height is 5 stories and 65 feet, and the front yard setback requirement is reduced to 0 feet.
- 2) In the MBMF Overlay District, one additional story may be added if the total percentage of affordable units exceeds the requirements in Section 8.2.3 Requirements of this Bylaw for a total of at least 22.5% of all units. In the MBMF Overlay District for properties facing Massachusetts Avenue, a second additional story may be added if the total percentage of affordable units exceeds the requirements in Section 8.2.3 Requirements of this Bylaw for a total of at least 25% of all units.
- 3) In the MBMF Overlay District, one additional story may be added for projects that are minimum LEED Gold certified or equivalent level of an alternate green building standard reviewed and approved by the Redevelopment Board.
- 4) The height with all bonuses shall not exceed 6 stories, 78 feet in the MBMF Overlay District on Massachusetts Avenue, 5 stories, 65 feet in the MBMF Overlay District on Broadway, and 3 stories, 35 feet in the NMF Overlay District.

F. Off-Street Parking and Bicycle Parking

- 1) The off-street parking requirements and procedures of Sections 6.1 to 6.1.11 of this Bylaw shall apply in the MBMF and NMF Overlay Districts except:
 - a. up to 50% of parking spaces may be sized for compact cars (as described in Section 6.1.11. Parking and Loading Space Standards) and

- b. No off-street parking is required for non-residential uses.
- 2) Developments in the MBMF and NMF Overlay Districts are encouraged to consider providing fewer parking spaces under the provisions of Section 6.1.5. of this Bylaw, Parking Reduction in Business, Industrial, and Multi-Family Residential Zones, which shall apply in the MBMF and NMF Overlay Districts.
- 3) The bicycle parking requirements and procedures set forth in Section 6.1.12 shall apply in the MBMF and NMF Overlay Districts.

G. Affordable Housing

Section 8.2 of this Bylaw, Affordable Housing Requirements, shall apply to any development under Section 5.9 of this Bylaw containing six or more dwelling units. Until the Massachusetts Executive Office of Housing and Livable Communities (EOHLC) approves using the requirements of Section 8.2 for housing built under Section 5.9 of this Bylaw, the affordability requirements are those allowed in the EOHLC Compliance Guidelines for Chapter 40A, Section 3A: that ten percent of the dwelling units shall be affordable, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income, or such other applicable Guidelines as EOHLC shall issue.

H. Solar Energy Systems

The requirements and procedures of Section 6.4 of this Bylaw, Solar Energy Systems, shall apply in the MBMF Overlay District, with Site Plan Review in the place of Environmental Design Review.

I. Signs

For Section 6.2 of this Bylaw, Signs, the Multi-Family Housing Overlay Districts are placed in these sign districts:

- 1) The NMF Overlay District is in the Residential Sign District.
- 2) The MBMF Overlay District is in the Residential/Business Sign District if the building is solely residential.
- 3) The MBMF Overlay District is in the Business Sign District if the building is mixed-use.